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SUSAN G. LICHTENFELD

May 12, 1995

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908-563-2700

888 SIXTEENTH STREET, N.W.  
WASHINGTON, D.C. 20006-4103  
202-296-8600

VIA OVERNIGHT COURIER

Vernon A. Williams  
Secretary  
Interstate Commerce Commission  
12th Street and Constitution Avenue, N.W.  
Washington, D.C. 20423

Attention: Janice Fort, Room 2311

Dear Mr. Williams:

Enclosed for recordation pursuant to the provisions of 49 U.S.C. Section 11303(a) are two original executed copies and two photostatic copies of a Security Agreement and Mortgage, dated as of May 12, 1995, between JAIX Leasing Company and The First National Bank of Chicago, as Agent (the "Security Agreement"), duly recorded, which Security Agreement is a primary document as defined in the Commission's Rules for the Recordation of Documents.

Also enclosed for recordation pursuant to the provisions of 49 U.S.C. Section 11303(a) are two original executed copies and two photostatic copies of an Security Agreement Supplement, dated as of May 12, 1995 ("Supplement"), relating to the Security Agreement which Supplement is a secondary document as defined in the Commission's Rules for the Recordation of Documents.

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Vernon A. Williams  
May 12, 1995  
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The names and addresses of the parties to the enclosed documents are:

Secured Party: The First National Bank of Chicago,  
as Agent  
One First National Plaza  
Chicago, Illinois 60670

Borrower: JAIX Leasing Company  
980 North Michigan Avenue  
Suite 1000  
Chicago, Illinois 60610

A description of the railroad equipment covered by the enclosed documents is set forth in the Security Agreement and the Schedule to the Supplement enclosed herein.

Also enclosed are two checks each in the amount of \$21.00 payable to the order of the Interstate Commerce Commission covering the required recordation fee.

Kindly return one stamped original and two stamped photostatic copies of each of the enclosed documents and the stamped photostatic copy of this letter to Susan G. Lichtenfeld at Ross & Hardies, 150 North Michigan Avenue, Suite 2700, Chicago, Illinois 60601.

Following is a short summary of the enclosed primary document and secondary document to which it relates:

Primary Document to be Recorded

Security Agreement and Mortgage between JAIX Leasing Company, as borrower, and The First National Bank of Chicago, as Agent, dated as of May 12, 1995.

Secondary Document to be Recorded

Security Agreement Supplement, dated May 12, 1995, between JAIX Leasing Company, as Borrower, and The First National Bank of Chicago, as Agent, relating to the 309 railcars identified therein.

Very truly yours,

  
Susan G. Lichtenfeld

SGL  
w/encl.  
cc: Robert W. Kleinman

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## SECURITY AGREEMENT AND MORTGAGE

This Security Agreement and Mortgage dated as of May 12, 1995 is entered into by and between JAIX Leasing Company, a Delaware corporation, and The First National Bank of Chicago, in its capacity as agent for the lending institutions from time to time party to the Credit Agreement referred to below pursuant to Article X of such Credit Agreement.

### PRELIMINARY STATEMENT

JAIX Leasing Company, The First National Bank of Chicago, as agent, and various lending institutions as lenders are entering into a Credit Agreement dated as of May 12, 1995. JAIX Leasing Company is entering into this Security Agreement and Mortgage in order to induce the lenders from time to time party to such Credit Agreement to enter into, and extend credit to the Borrower under, such Credit Agreement.

ACCORDINGLY, the Borrower and the Agent, on behalf of the Lenders, hereby agree as follows:

### ARTICLE I DEFINITIONS

1.1. Terms Defined in Credit Agreement. All capitalized terms used herein and not otherwise defined herein shall have the meanings assigned to such terms in the Credit Agreement.

1.2. Terms Defined in Illinois Uniform Commercial Code. Terms defined in the Illinois Uniform Commercial Code which are not otherwise defined herein are used herein as defined in the Illinois Uniform Commercial Code as in effect on the date hereof.

1.3. Definitions of Certain Terms Used Herein. As used in this Security Agreement and Mortgage, the following terms shall have the following meanings:

"Agent" means The First National Bank of Chicago, in its capacity as agent for the Lenders pursuant to Article X of the Credit Agreement, and not in its individual capacity as a Lender, and any successor Agent appointed pursuant to Article X of the Credit Agreement.

"Article" means a numbered article of this Security Agreement and Mortgage, unless another document is specifically referenced.

"Borrower" means JAIX Leasing Company, a Delaware corporation, and its successors and assigns.

"Collateral" means (i) all Equipment, wherever located, in which the Borrower now has or hereafter acquires any right, title or interest, (ii) all Leases and Lease Rights in which the Borrower now has or hereafter acquires any right, title or interest, (iii) all books and records, customer lists, credit files, computer files, programs, printouts and other computer materials and records related to any or all of the Equipment, Leases or Lease Rights in which the Borrower now has or hereafter acquires any right, title or interest, (iv) the special cash collateral account referred to in Section 7.2 and all amounts from time to time on deposit therein or credited thereto and all investments, if any, made with the proceeds thereof and all interest earned thereon, and (v) all proceeds (including insurance and indemnity proceeds) of any of the foregoing.

"Credit Agreement" means that certain Credit Agreement dated as of May 12, 1995 among the Borrower, The First National Bank of Chicago as Agent, and the lending institutions from time to time party thereto, as it may be amended, supplemented or otherwise modified from time to time.

"Default" means an event described in Section 5.1.

"Equipment" means all railroad cars identified in any Security Agreement Supplement together with all accessories, equipment, parts and appurtenances appertaining or attached to such railroad cars, whether now owned or hereafter acquired, and all substitutions, renewals or replacements of and additions, improvements and accessions to any and all of such railroad cars.

"Leases" means (i) all leases identified in any Security Agreement Supplement, and (ii) all other leases (whether or not in writing or for a term certain and whether or not originally entered into by the Borrower or assigned to the Borrower by some other party) from time to time now or hereafter in effect between the Borrower and any lessee or user of any Equipment, including, without limitation, per diem leases

"Lease Rights" means all accounts, contract rights, instruments, documents and chattel paper from time to time arising from or related to the Equipment and Leases including, without limitation, (i) all amendments, extensions, supplements and other modifications made from time to time to such Leases, (ii) the right to receive all rent payable in connection with use of the Equipment, (iii) all claims for damages arising out of the breach of any Lease, (iv) the right, if any, to terminate any Lease, to perform thereunder and to compel performance of the terms thereof, and (v) the right to take possession of the Equipment.

"Lessee" means the Person obligated as lessee under any Lease.

"Lenders" means the lenders from time to time party to the Credit Agreement and their successors and assigns.

"Required Secured Parties" means (x) prior to an acceleration of the Obligations under the Credit Agreement, the Required Lenders and (y) after an acceleration of the

Obligations under the Credit Agreement, Lenders holding in the aggregate at least 66-2/3% of the total of (i) the unpaid principal amount of outstanding Advances, plus (ii) the aggregate net early termination payments then due and unpaid from the Borrower to the Lenders under all agreements creating Rate Hedging Obligations owing to one or more Lenders, as determined by the Agent in its reasonable discretion.

"Section" means a numbered section of this Security Agreement and Mortgage, unless another document is specifically referenced.

"Secured Obligations" means, collectively, (i) the Obligations and (ii) all Rate Hedging Obligations owing to one or more Lenders.

"Security Agreement" means this Security Agreement and Mortgage between the Borrower and the Agent, as it may be amended, supplemented or otherwise modified from time to time.

"Security Agreement Supplement" means a Security Agreement Supplement in substantially the form of Exhibit "A" hereto (with appropriate insertions) executed by the Borrower and the Agent, as it may be amended, supplemented or otherwise modified from time to time.

"Unmatured Default" means an event which but for the lapse of time or the giving of notice, or both, would constitute a Default.

The foregoing definitions shall be equally applicable to both the singular and plural forms of the defined terms.

## ARTICLE II GRANT OF SECURITY INTEREST

The Borrower hereby pledges, assigns and grants to the Agent, on behalf of and for the ratable benefit of the Lenders, a security interest in all of the Borrower's right, title and interest in and to the Collateral to secure the prompt and complete payment and performance of the Secured Obligations; provided that, to the extent set forth in Section 8.17, the Agent's security interest in the Equipment shall be subject to the rights of the Lessees under the Leases. It is expressly agreed that anything herein to the contrary notwithstanding, the Borrower shall remain liable under the Leases to perform all of the obligations assumed by it thereunder, all in accordance with and pursuant to the terms and provisions thereof, and none of the Agent or the Lenders shall have any obligation or liability under any Lease by reason of or arising out of the assignment hereunder, nor shall the Agent nor any of the Lenders be required or obligated in any manner to perform or fulfill any obligations of the Borrower under or pursuant to any Lease, or to make any payment, or to make any inquiry as to the nature or sufficiency of any payment received by it, or present or file any claim, or take any action to collect or enforce the payment of any amounts which may have been assigned to it or to which it may be entitled at any time or times.

### ARTICLE III REPRESENTATIONS AND WARRANTIES

As of each Borrowing Date, the Borrower represents and warrants to the Agent and the Lenders that:

3.1. Title; Lien. The Borrower has good and valid rights in and title to the Collateral described in the Security Agreement Supplement executed as of such Borrowing Date with respect to which it has purported to grant a security interest hereunder, free and clear of all Liens except for Liens permitted under Section 4.12, and has full power and authority to grant to the Agent the security interest in such Collateral pursuant hereto. When the Leases, this Security Agreement and the Security Agreement Supplements have been filed with the Interstate Commerce Commission pursuant to Section 11303 of the Interstate Commerce Act, as amended, and in the case of any Lease which permits the Equipment to cross the United States-Canada border, with the Registrar General of Canada pursuant to the Railway Act (Canada), as amended, the Agent will have a fully perfected security interest in the Equipment (other than Equipment located in Mexico which is covered by an Eligible Lease which permits such Equipment to cross the United States-Mexico border and satisfies the requirements of clause (viii) of the definition of "Eligible Lease" set forth in Article I of the Credit Agreement) and Leases covered by the filed Security Agreement Supplements, subject only to Liens permitted under Section 4.12. When financing statements have been filed against the Borrower with the Secretary of State of Illinois, the Secretary of the Commonwealth of Pennsylvania and the Prothonotary of Cambria County, Pennsylvania, the Agent will have a fully perfected security interest in that Collateral in which a security interest may be perfected by filing pursuant to the Uniform Commercial Code, subject only to Liens permitted under Section 4.12.

3.2. Location of Records. All of the Borrower's books and records relating to the Collateral are kept at either the chief executive office of the Borrower identified in Section 3.3 or at the following address:

JAIX Leasing Company  
17 Johns Street  
Johnstown, Pennsylvania 15901

3.3. Chief Executive Office and Mailing Address. The Borrower's mailing address and the location of its chief executive office is as follows:

JAIX Leasing Company  
980 North Michigan Avenue, Suite 1000  
Chicago, Illinois 60611  
Attention: Chief Financial Officer

3.4. No Other Names. The Borrower has not conducted business under any name except the name in which it has executed this Security Agreement.

3.5. No Default. No Default or Unmatured Default exists.

3.6. Accuracy of Records. The names of the Lessees, amounts owing, due dates and other information with respect to the Collateral are and will be correctly stated in all records of the Borrower relating thereto and in all invoices and reports with respect thereto furnished to the Agent by the Borrower from time to time. As of the time when each Lease arises, the Borrower shall be deemed to have represented and warranted that such Lease, and all records relating thereto, are genuine and in all respects what they purport to be.

3.7. No Financing Statements. No uniform commercial code financing statement describing all or any portion of the Collateral which has not lapsed or been terminated naming the Borrower as debtor has been filed in any jurisdiction except financing statements naming the Agent on behalf of the Lenders as the secured party.

3.8. Type of Equipment. All Equipment pledged to the Agent hereunder will be railroad cars manufactured or remanufactured by Johnstown America Corporation, as described on Schedule "3" to the Credit Agreement as such Schedule "3" may be supplemented from time to time in accordance with the Credit Agreement.

3.9. Enforceability of Agreements; First Lien Equipment. The Leases are legal, valid and binding obligations of the Borrower, and the Borrower reasonably believes that the Leases are the legal, valid and binding obligations of the respective Lessees, in either case, enforceable in accordance with their terms, subject to no setoff, defense or counterclaim of any kind but subject to applicable bankruptcy, insolvency and similar laws relating generally to the enforcement of creditors rights from time to time in effect and to applicable principles of equity if equitable remedies are sought. The Borrower has ownership of all of the Equipment, free and clear of all Liens other than Liens permitted under Section 4.12.

3.10. Legality of Agreements. None of the Leases violate any law or governmental rule or regulation applicable to the Borrower or, to the knowledge of the Borrower, applicable to any Lessee, in each case, the violation of which could reasonably be expected to have a Material adverse Effect.

#### ARTICLE IV COVENANTS

From the date of this Security Agreement, and thereafter until this Security Agreement is terminated:

4.1. Inspection. The Borrower will permit the Agent, by its representatives and agents, to inspect, subject to the rights of the Lessees under the Leases, the Collateral in a manner not interfering with any Lessee's rights to use the Equipment subject to such inspection, to examine and make copies of the records of the Borrower relating thereto, and to discuss the Collateral, and the records of the Borrower with respect thereto, with, and to be advised as to the same by, the Borrower's officers and, in the case of any Lease, with any

person or entity which is or may be obligated thereon, subject to the consent of any such person or entity, all at such reasonable times and intervals as the Agent may determine. If any discount, credit, agreement to make a rebate or to otherwise reduce the amount owing on a Lease exists or if, to the knowledge of the Borrower, any dispute, setoff, claim, counterclaim or defense exists or has been asserted or threatened with respect to a Lease, such fact shall be disclosed to the Agent in writing in connection with the inspection by the Agent of any record of the Borrower relating to such Lease and in connection with any invoice or report furnished by the Borrower to the Agent relating to such Lease.

4.2. Taxes. The Borrower will pay when due all taxes, assessments and governmental charges and levies upon the Collateral, except those which are being contested in good faith by appropriate proceedings and with respect to which adequate reserves have been set aside.

4.3. Records and Reports; Notification of Default. The Borrower will maintain complete and accurate books and records with respect to the Collateral, and furnish to the Agent, with sufficient copies for each of the Lenders, such reports relating to the Collateral as the Agent shall from time to time reasonably request. The Borrower will give notice in writing to the Agent and the Lenders of the occurrence of any Default or Unmatured Default and of any other development, financial or otherwise, which in the opinion of the Borrower is expected to materially and adversely affect the Collateral. Such notice shall be delivered within five Business Days after (i) the occurrence of any Default and (ii) the Borrower's becoming aware of any Unmatured Default or any other development, financial or otherwise, which in the opinion of the Borrower is expected to materially and adversely affect the Collateral.

4.4. Financing Statements, UCC Filing and Other Actions; Defense of Title. The Borrower will execute and deliver to the Agent all financing statements and other documents and take such other actions as may from time to time be requested by the Agent in order to establish and maintain a first perfected security interest in the Collateral. The Borrower will cause this Security Agreement and all Security Agreement Supplements to be at all times recorded and filed, at no expense to the Agent or the Lender, with (i) the Interstate Commerce Commission pursuant to Section 11303 of the Interstate Commerce Act, as amended from time to time, and (ii) the Registrar General of Canada pursuant to the Railway Act (Canada), as amended from time to time, and (iii) such other filing authority or office as the Agent or any Lender acting through the Agent may from time to time reasonably request. The Borrower will take any and all actions necessary to defend title to the Collateral against all Persons and to defend the Lien of the Agent in the Collateral and the priority thereof against any Lien not expressly permitted hereunder.

4.5. Compliance with Law. The Borrower will comply, and will use all commercially reasonable efforts to enforce the provisions of the Leases which require the Lessees to comply, with all laws of the jurisdictions in which its or their operations involving the Equipment may extend, with the interchange rules of the Association of American Railroads, and with all laws, rules and regulations of the Department of Transportation, Interstate Commerce Commission and any other legislative, executive, administrative or



judicial body exercising any power or jurisdiction over the Equipment, in each case, to the extent that the failure to comply with such laws, rules or regulations could reasonably be expected to have a material adverse effect on the value of the Equipment; and in the event that such laws, rules or regulations require any alteration, replacement or addition of any part on any units of the Equipment, the Borrower will, if the applicable unit of Equipment is not then subject to a Lease, make such alteration, replacement or addition at its own expense, and if the applicable unit of Equipment is then subject to a Lease, use all commercially reasonable efforts to enforce the provisions of the applicable Lease which require the applicable Lessee to make such alteration, replacement or addition; provided, however, that the Borrower or any Lessee may, in good faith, contest the validity or application of any such law or rule or regulation in any reasonable manner which does not, in the reasonable opinion of the Agent, adversely affect the property or rights of the Agent under this Security Agreement.

4.6. Notification of Lessees. After the occurrence of a Default, the Borrower will from time to time upon the request of the Agent notify the Lessees on the Leases to make payments thereon at such place and in such manner as the Agent shall specify.

4.7. Marking of Equipment. The Borrower will keep and maintain or cause to be kept and maintained, plainly, distinctly, permanently and conspicuously marked on each item of Equipment, in letters not less than seven-sixteenths of an inch in height, the statement, "TITLE TO THIS CAR SUBJECT TO DOCUMENTS RECORDED WITH THE INTERSTATE COMMERCE COMMISSION", or other appropriate words stenciled on the item of Equipment with appropriate changes thereof and additions thereto as from time to time may be required by law in order to protect the Agent's security interest in the Equipment and its rights hereunder. Once the Equipment is so marked, the Borrower will not permit the identifying number of any item of Equipment to be changed without recording such change with the Interstate Commerce Commission.

4.8. Maintenance and Use of Equipment. The Borrower will at all times maintain each item of Equipment, or cause each item of Equipment to be maintained, in good repair, working order and condition, ordinary wear and tear excepted (including, without limitation, in condition suitable for use in interchange if and to the extent permitted by the Interchange Rules of the Association of American Railroads), and at all times use, or cause each item of Equipment to be used, only in the manner for which it was designed and intended.

4.9. Insurance. The Borrower will maintain, or will cause to be maintained, (i) fire and extended coverage insurance on the Equipment containing a lender's loss payable clause in favor of the Agent, on behalf of the Lenders, and providing that said insurance will not be terminated except after at least 30 days' written notice from the insurance company to the Agent, (ii) furnish to the Agent upon the request of the Agent from time to time certificates evidencing the existence of such insurance and (iii) maintain general liability insurance with respect to the Equipment naming the Agent, on behalf of the Lenders, as an additional insured.

4.10. Leases. The Borrower will (i) deliver to the Agent all originally executed copies of the Leases other than those on file with any governmental agency or held by a Lessee, and (ii) hold in trust for the Agent upon receipt by the Borrower and immediately thereafter deliver to the Agent any chattel paper and instruments constituting Collateral.

4.11. Disposition of Collateral. The Borrower will not sell, lease or otherwise dispose of the Collateral except (i) pursuant to the Leases, (ii) prior to the occurrence of a Default or Unmatured Default, dispositions permitted pursuant to Section 6.14 of the Credit Agreement, and (iii) until such time as the Borrower receives a notice from the Agent pursuant to Section 7.1, proceeds of the Equipment, Leases and Lease Rights collected in the ordinary course of business.

4.12. Liens. The Borrower will not create, incur, or suffer to exist any Lien on the Collateral except Liens permitted pursuant to Section 6.19 of the Credit Agreement.

4.13. Change in Location or Name. The Borrower will not (i) maintain records relating to the Collateral at a location other than at the location specified in Section 3.2, (ii) maintain its chief executive office at a location other than a location specified in Section 3.3, (iii) change its name or taxpayer identification number or (iv) change its mailing address, unless the Borrower shall have given the Agent not less than 30 days' prior written notice thereof, and the Agent shall have determined that such change will not adversely affect the validity, perfection or priority of the Agent's security interest in the Collateral.

4.14. Other Financing Statements. The Borrower will not sign or authorize the signing on its behalf of any financing statement naming it as debtor covering all or any portion of the Collateral.

4.15. Location. The Borrower will not permit any of the Equipment to be used outside the continental United States, Canada and Mexico, and will cause the Equipment to be used only on railroad lines which connect in accordance with industry standards and the rules and regulations of the Association of American Railroads and the Federal Railroad Administration, and any successor organizations, with the lines of major railroad carriers operating in the usual interchange of traffic in the continental United States, Canada and Mexico.

4.16. Amendment of Leases. The Borrower will not amend, modify or terminate any Lease except, so long as no Default shall have occurred and be continuing, (i) in accordance with its present policies and in the ordinary course of business or (ii) in a manner that could not reasonably be expected to have a Material Adverse Effect.

## ARTICLE V DEFAULT

5.1. The occurrence of any one or more of the following events shall constitute a Default:

5.1.1. Any representation or warranty made by or on behalf of the Borrower under or in connection with this Security Agreement shall be materially false as of the date on which made.

5.1.2. The breach by the Borrower of any of the terms or provisions of Section 4.3, 4.4, 4.6, 4.9, 4.10, 4.11, 4.13, 4.14, 4.15 or 4.16, or of any of the terms or provisions of Section 4.12 which results from the incurrence of any consensual Lien by the Borrower.

5.1.3. The breach by the Borrower (other than a breach which constitutes a Default under Section 5.1.1 or 5.1.2) of any of the terms or provisions of this Security Agreement which is not remedied within 30 days after the giving of written notice to the Borrower by the Agent.

5.1.4. Any material portion of the Collateral shall be transferred or otherwise disposed of, either voluntarily or involuntarily, in any manner not permitted by Section 4.11 or 8.6.

5.1.5. The occurrence of any "Default" under, and as defined in, the Credit Agreement.

5.2. Acceleration and Remedies. If any Default occurs and is continuing, then, upon the election of the Required Lenders, the Agent on behalf of the Lenders, may, subject to the rights of the Lessees under the Leases, exercise any or all of the following rights and remedies:

5.2.1. Those rights and remedies provided in this Security Agreement, the Credit Agreement, or any other Transaction Document, provided that this Section 5.2.1 shall not be understood to limit any rights or remedies available to the Agent and the Lenders prior to a Default.

5.2.2. Those rights and remedies available to a secured party under the Illinois Uniform Commercial Code (whether or not the Illinois Uniform Commercial Code applies to the affected Collateral) or under any other applicable law (including, without limitation, any law governing the exercise of a bank's right of setoff or bankers' lien) when a debtor is in default under a security agreement.

5.2.3. Without notice except as specifically provided in Section 8.1 or elsewhere herein, sell, lease, assign, grant an option or options to purchase or otherwise dispose of the Collateral or any part thereof in one or more parcels at public or private sale, for cash, on credit or for future delivery, and upon such other terms as the Agent may deem commercially reasonable.

5.3. Borrower's Obligations Upon Default. Upon the request of the Agent after the occurrence of a Default, the Borrower will, subject to the rights of the Lessees under the Leases:

5.3.1. Assembly of Collateral. Assemble and make available to the Agent the Collateral and all records relating thereto at any place or places specified by the Agent.

5.3.2. Access. Permit the Agent, by the Agent's representatives and agents, to enter any premises where all or any part of the Collateral, or the books and records relating thereto, or both, are located, to take possession of all or any part of the Collateral and to remove all or any part of the Collateral.

## ARTICLE VI WAIVERS, AMENDMENTS AND REMEDIES

No delay or omission of the Agent or any Lender to exercise any right or remedy granted under this Security Agreement shall impair such right or remedy or be construed to be a waiver of any Default or an acquiescence therein, and any single or partial exercise of any such right or remedy shall not preclude any other or further exercise thereof or the exercise of any other right or remedy. No waiver, amendment or other variation of the terms, conditions or provisions of this Security Agreement whatsoever shall be valid unless in writing signed by the Agent with the concurrence or at the direction of the Lenders required under Section 8.2 of the Credit Agreement and then only to the extent in such writing specifically set forth. All rights and remedies contained in this Security Agreement or by law afforded shall be cumulative and all shall be available to the Agent and the Lenders until the Secured Obligations have been paid in full.

## ARTICLE VII PROCEEDS; COLLECTION OF RECEIVABLES

7.1. Collection of Lease Payments. The Agent may at any time after the occurrence and during the continuance of any Default, by giving the Borrower written notice, elect to require that the amounts payable under the Leases be paid directly to the Agent for the benefit of the Lenders. In such event, the Borrower shall, and shall permit the Agent to, promptly notify Lessees under the Leases of the Lenders' interest therein and direct such Lessees to make payment of all amounts then or thereafter due under the Receivables directly to the Agent. Upon receipt of any such notice from the Agent, the Borrower shall thereafter hold in trust for the Agent, on behalf of the Lenders, all amounts and proceeds received by it with respect to the Leases and immediately and at all times thereafter deliver to the Agent all such amounts and proceeds in the same form as so received, whether by cash, check, draft or otherwise, with any necessary endorsements. The Agent shall hold and apply funds so received as provided by the terms of Sections 7.2 and 7.3.

7.2. Special Collateral Account. If any Default has occurred and is continuing, the Agent may require all cash proceeds of the Collateral to be deposited in a special non-interest bearing cash collateral account with the Agent and held there as security for the Secured Obligations. The Borrower shall have no control whatsoever over said cash collateral

account. If any Default has occurred and is continuing, the Agent may also (and shall, at the direction of the Required Secured Parties), from time to time, apply the collected balances in said cash collateral account to the payment of the Secured Obligations whether or not the Secured Obligations shall then be due. If at any time there are collected balances in said cash collateral account and there exists no Default or Unmatured Default, the Agent shall deposit such collected balances into the Borrower's general operating account with the Agent.

7.3. Application of Proceeds. The proceeds of the Collateral shall be applied by the Agent to payment of the Secured Obligations in the following order unless a court of competent jurisdiction shall otherwise direct:

(a) FIRST, to payment of all costs and expenses of the Agent incurred in connection with the collection and enforcement of the Secured Obligations or of the security interest granted to the Agent pursuant to this Security Agreement;

(b) SECOND, to payment of that portion of the Secured Obligations constituting accrued and unpaid interest and fees, pro rata among the Lenders in accordance with the amount of such accrued and unpaid interest and fees owing to each of them;

(c) THIRD, to payment of the principal of the Secured Obligations and net early termination payments then due and unpaid from the Borrower to any of the Lenders under all agreements creating Rate Hedging Obligations owing to one or more Lenders, pro rata among the Lenders in accordance with the amount of such principal and such net early termination payments then due and unpaid owing to each of them;

(d) FOURTH, to payment of any Secured Obligations (other than those listed above) pro rata among those parties to whom such Secured Obligations are due in accordance with the amounts owing to each of them; and

(e) FIFTH, the balance, if any, after all of the Secured Obligations have been satisfied, shall be deposited by the Agent into the Borrower's general operating account with the Agent.

## ARTICLE VIII GENERAL PROVISIONS

8.1. Notice of Disposition of Collateral. To the fullest extent permitted by applicable law, the Borrower hereby waives notice of the time and place of any public sale or the time after which any private sale or other disposition of all or any part of the Collateral may be made. To the extent such notice may not be waived under applicable law, any notice made shall be deemed reasonable if sent to the Borrower, addressed as set forth in Article IX, at least ten days prior to (i) the date of any such public sale or (ii) the time after which any such private sale or other disposition may be made.

8.2. Compromises and Collection of Collateral. The Borrower and the Agent recognize that setoffs, counterclaims, defenses and other claims may be asserted by Lessees with respect to certain of the Leases, that certain of the amounts payable under the Leases may be or become uncollectible in whole or in part and that the expense and probability of success in litigating a disputed Lease may exceed the amount that reasonably may be expected to be recovered with respect to a Lease. In view of the foregoing, the Borrower agrees that the Agent may at any time and from time to time, if a Default has occurred and is continuing, compromise with the obligor on any Lease, accept in full payment of any amount payable under a Lease such amount as the Agent in its sole discretion shall determine or abandon any amount payable under a Lease, and any such action by the Agent shall be commercially reasonable so long as the Agent acts in good faith based on information known to it at the time it takes any such action.

8.3. Agent Performance of Borrower Obligations. Without having any obligation to do so, the Agent may perform or pay any obligation which the Borrower has agreed to perform or pay in this Security Agreement and the Borrower shall reimburse the Agent for any amounts paid by the Agent pursuant to this Section 8.3. The Borrower's obligation to reimburse the Agent pursuant to the preceding sentence shall be a Secured Obligation payable on demand.

8.4. Authorization for Agent to Take Certain Action. The Borrower irrevocably authorizes the Agent at any time and from time to time in the sole discretion of the Agent, and hereby appoints the Agent as its attorney in fact, (i) to execute on behalf of the Borrower as debtor and to file financing statements necessary or desirable in the Agent's sole discretion to perfect and to maintain the perfection and priority of the Agent's security interest in the Collateral, and (ii) to file a carbon, photographic or other reproduction of this Security Agreement or any financing statement with respect to the Collateral as a financing statement in such offices as the Agent in its sole discretion deems necessary or desirable to perfect and to maintain the perfection and priority of the Agent's security interest in the Collateral. The Borrower also irrevocably authorizes the Agent at any time and from time to time after the occurrence of and during the continuance of a Default, and hereby appoints the Agent as its attorney in fact, (i) to indorse and collect any cash proceeds of the Collateral, (ii) to enforce payment of the Lease payments in the name of the Agent or the Borrower, (iii) to apply the proceeds of any Collateral received by the Agent to the Secured Obligations as provided in Article VII, and (iv) to discharge past due taxes, assessments, charges, fees or Liens on the Collateral (except for such Liens as are specifically permitted hereunder), and the Borrower agrees to reimburse the Agent on demand for any payment made or any expense incurred by the Agent in connection therewith. No authorization given the Agent under this Section 8.4 shall relieve the Borrower of any of its obligations under this Security Agreement or under the Credit Agreement.

8.5. Specific Performance of Certain Covenants. The Borrower acknowledges and agrees that a breach of any of the covenants contained in Sections 4.10, 4.11, 4.12, 5.3 or 8.6 or in Article VII will cause irreparable injury to the Agent and the Lenders, that the Agent and Lenders have no adequate remedy at law in respect of such breaches and therefore agrees, without limiting the right of the Agent or the Lenders to seek and obtain specific

performance of other obligations of the Borrower contained in this Security Agreement, that the covenants of the Borrower contained in the Sections referred to in this Section 8.5 shall be specifically enforceable against the Borrower.

8.6. Dispositions Not Authorized. The Borrower is not authorized to sell or otherwise dispose of the Collateral except as set forth in Section 4.11 and notwithstanding any course of dealing between the Borrower and the Agent or other conduct of the Agent, no authorization to sell or otherwise dispose of the Collateral (except as set forth in Section 4.11) shall be binding upon the Agent or the Lenders unless such authorization is in writing signed by the Agent with the consent or at the direction of the Required Lenders.

8.7. Benefit of Agreement. The terms and provisions of this Security Agreement shall be binding upon and inure to the benefit of the Borrower, the Agent and the Lenders and their respective successors and assigns, except that the Borrower shall not have the right to assign its rights or delegate its obligations under this Security Agreement or any interest herein, without the prior written consent of the Agent.

8.8. Lessee Performance of Borrower's Obligations. Notwithstanding anything to the contrary set forth in Section 8.7 or any other provision of this Security Agreement, the Borrower may require any Lessee to perform the Borrower's obligations hereunder with respect to the operation, use, maintenance and insurance of the Equipment leased by such Lessee, and to the extent such Lessee performs such obligations, the Borrower shall be deemed to have performed such obligations in accordance with the terms hereof.

8.9. Survival of Representations. All representations and warranties of the Borrower contained in this Security Agreement shall survive the execution and delivery of this Security Agreement.

8.10. Taxes and Expenses. Any taxes (including income taxes) payable or ruled payable by Federal or State authority in respect of this Security Agreement shall be paid by the Borrower, together with interest and penalties, if any. The Borrower shall reimburse the Agent for any and all reasonable out-of-pocket expenses and internal charges (including reasonable attorneys', auditors' and accountants' fees and reasonable time charges of attorneys, paralegals, auditors and accountants who may be employees of the Agent) paid or incurred by the Agent in connection with the preparation, execution, delivery, administration, collection and enforcement of this Security Agreement and in the audit, analysis, administration, collection, preservation or sale of the Collateral (including the expenses and charges associated with any periodic or special audit of the Collateral). Any and all costs and expenses incurred by the Borrower in the performance of actions required pursuant to the terms hereof shall be borne solely by the Borrower.

8.11. Headings. The title of and section headings in this Security Agreement are for convenience of reference only, and shall not govern the interpretation of any of the terms and provisions of this Security Agreement.

8.12. Termination. This Security Agreement shall continue in effect (notwithstanding the fact that from time to time there may be no Secured Obligations outstanding) until (i) the Credit Agreement has terminated pursuant to its express terms and (ii) all of the Secured Obligations have been indefeasibly paid and performed in full and no commitments of the Agent or the Lenders which would give rise to any Secured Obligations are outstanding.

8.13. Entire Agreement. This Security Agreement embodies the entire agreement and understanding between the Borrower and the Agent relating to the Collateral and supersedes all prior agreements and understandings between the Borrower and the Agent relating to the Collateral.

**8.14. CHOICE OF LAW. THIS SECURITY AGREEMENT SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE INTERNAL LAWS (AND NOT THE LAW OF CONFLICTS) OF THE STATE OF ILLINOIS, BUT GIVING EFFECT TO FEDERAL LAWS APPLICABLE TO NATIONAL BANKS.**

8.15. Distribution of Reports. Subject always to Section 9.15 of the Credit Agreement, the Borrower authorizes the Agent, as the Agent may elect in its sole discretion, to discuss with and furnish to the Lenders or to any other person or entity having an interest in the Secured Obligations (whether as a guarantor, pledgor of collateral, participant or otherwise) all financial statements, audit reports and other information pertaining to the Borrower and its Subsidiaries whether such information was provided by the Borrower or prepared or obtained by the Agent. Neither the Agent nor any of its employees, officers, directors or agents makes any representation or warranty regarding any audit reports or other analyses of the Borrower's and its Subsidiaries' condition which the Agent may in its sole discretion prepare and elect to distribute, nor shall the Agent or any of its employees, officers, directors or agents be liable to any person or entity receiving a copy of such reports or analyses for any inaccuracy or omission contained in or relating thereto.

8.16. Indemnity. The Borrower hereby agrees to indemnify the Agent and the Lenders, and their respective successors, assigns, agents and employees (each an "Indemnitee"), on an after-tax basis, from and against any and all liabilities, damages, penalties, suits, costs, and expenses of any kind and nature (including, without limitation, all expenses of litigation or preparation therefor whether or not any Indemnitee is a party thereto) imposed on, incurred by or asserted against any Indemnitee, in any way relating to or arising out of this Security Agreement, or the manufacture, purchase, acceptance, rejection, ownership, delivery, lease, possession, use, operation, condition, sale, return or other disposition of any Collateral (including, without limitation, latent and other defects, whether or not discoverable by any Indemnitee or the Borrower, and any claim for patent, trademark or copyright infringement); provided that the Borrower shall not be required to indemnify any Indemnitee pursuant to this Section 8.16 to the extent that the liability, damage, penalty, suit, cost or expenses for which indemnity is sought is attributable to the gross negligence or willful misconduct of the Indemnitee claiming such indemnity or any of its agents or employees. In case any action, suit or proceeding shall be brought against any Indemnitee, such Indemnitee shall notify the Borrower of the commencement thereof, and the



Borrower shall be entitled, at its own expense, to participate in, and, to the extent that the Borrower desires, assume and control the defense thereof; provided, however, that the Borrower shall have acknowledged in writing its obligation to fully indemnify such Indemnatee in respect of such action, suit or proceeding, and, the Borrower shall keep such Indemnatee fully apprised of the status of such action, suit or proceeding and shall provide such Indemnatee with all information with respect to such action, suit or proceeding as such Indemnatee may reasonably request; and provided further, that the Borrower shall not be entitled to assume and control the defense of any such action, suit or proceeding if and to the extent that (i) in the reasonable opinion of such Indemnatee, (A) such action, suit or proceeding involves any possibility of the imposition of criminal liability or any material risk of material civil liability on such Indemnatee or will involve a material risk of the sale, forfeiture or loss of, or the creation of any Lien (other than a Lien permitted by Section 6.19 of the Credit Agreement) on the Collateral or any part thereof unless the Borrower shall have posted a bond or other security satisfactory to such Indemnatee in respect of such risk, or (B) the Borrower's control of such action, suit or proceeding would involve an actual or potential conflict of interest, (ii) such action, suit or proceeding involves claims not fully indemnified by the Borrower which the Borrower has been unable to sever from the indemnified claim(s), or (iii) a Default has occurred and is continuing. The applicable Indemnatee may participate in any reasonable manner at its own expense and with its own counsel in any proceeding conducted by the Borrower in accordance with the foregoing. The Borrower shall not enter into any settlement or other compromise with respect to any claim which is entitled to be indemnified under this Section 8.16 without the prior written consent of each affected Indemnatee which consent shall not be unreasonably withheld or delayed; provided, however, that no consent shall be required if the settlement or compromise of any claim contains a full written release of each affected Indemnatee. If any Indemnatee is conducting the defense of any claim on behalf of the Borrower, such Indemnatee shall not enter into any settlement or compromise of such claim without the prior written consent of the Borrower, which consent shall not be unreasonably withheld or delayed.

8.17. Acknowledgement of Lease; Covenant of Noninterference. The Agent, on behalf of the Lenders, hereby acknowledges that the items of Equipment are to be leased to various Lessees. The Agent, on behalf of the Lenders, covenants that neither the Agent nor any Lender will interfere with any Lessee's use and possession of the items of Equipment leased to it under a particular Lease in accordance with the terms of such Lease so long as no event of default has occurred and is continuing under such Lease. This Section 8.17 inures to the benefit of each Lessee and is enforceable by each Lessee. This Section 8.17 may not be amended, modified or waived without the prior written consent of each Lessee that would be adversely affected by such amendment, modification or waiver.

## ARTICLE IX NOTICES

9.1. Sending Notices. Any notice required or permitted to be given under this Security Agreement shall be sent (and deemed received) in the manner and to the addresses set forth in Article XIII of the Credit Agreement.

9.2. Change in Address for Notices. Each of the Borrower, the Agent and the Lenders may change the address for service of notice upon it by a notice in writing to the other parties.

ARTICLE X  
THE AGENT

The First National Bank of Chicago has been appointed Agent for the Lenders hereunder pursuant to Article X of the Credit Agreement. It is expressly understood and agreed by the parties to this Security Agreement that any authority conferred upon the Agent hereunder is subject to the terms of the delegation of authority made by the Lenders to the Agent pursuant to the Credit Agreement, and that the Agent has agreed to act (and any successor Agent shall act) as such hereunder only on the express conditions contained in such Article X. Any successor Agent appointed pursuant to Article X of the Credit Agreement shall be entitled to all the rights, interests and benefits of the Agent hereunder.

IN WITNESS WHEREOF, the Borrower and the Agent have executed this Security Agreement and Mortgage as of the date first above written.

JAIX LEASING COMPANY

By: 

Title: 

THE FIRST NATIONAL BANK OF CHICAGO,  
as Agent

By: 

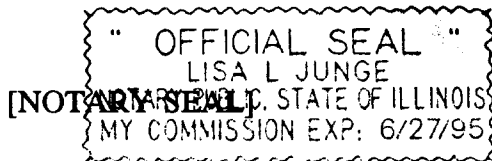
Title: 

STATE OF ILLINOIS )

: ss.:

COUNTY OF COOK )

On this 12<sup>th</sup> day of May \_\_, 1995, before me, personally appeared David W. Riesmeyer, to me personally known, who being by me duly sworn, says that he/she is a Treasurer of JAIX Leasing Company, a Delaware corporation, that the foregoing instrument was signed on behalf of said corporation by authority of its Board of Directors, and he/she acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.



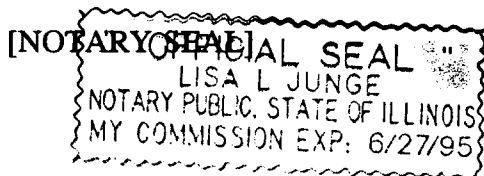
Lisa L. Junge  
Notary Public

STATE OF ILLINOIS )

: ss.:

COUNTY OF COOK )

On this 12<sup>th</sup> day of May \_\_, 1995, before me, personally appeared Karen F. Kizer to me personally known, who being by me duly sworn, says that he/she is a Vice President of The First National Bank of Chicago, a national banking association, that the foregoing instrument was signed on behalf of said national banking association by authority of its Board of Directors, and he/she acknowledged that the execution of the foregoing instrument was the free act and deed of said national banking association.



Lisa L. Junge  
Notary Public

**EXHIBIT "A"**  
to Security Agreement

**SECURITY AGREEMENT SUPPLEMENT**

This Security Agreement Supplement dated as of \_\_\_\_\_, 19\_\_ is entered into by and between JAIX Leasing Company, a Delaware corporation (the "Borrower"), and The First National Bank of Chicago, in its capacity as agent (the "Agent") for the lenders from time to time party to the Credit Agreement referred to below.

**PRELIMINARY STATEMENT**

The Borrower, the Agent and various financial institutions as lenders have entered into a Credit Agreement dated as of May 12, 1995 (as amended, supplemented or otherwise modified from time to time, the "Credit Agreement"), and the Borrower and the Agent have entered into a Security Agreement and Mortgage dated as of May 12, 1995 (as amended, supplemented or otherwise modified from time to time, the "Security Agreement"). The Borrower is entering into this Security Agreement Supplement pursuant to the Security Agreement in order to induce the lenders from time to time party to the Credit Agreement to enter into and extend credit to the Borrower under the Credit Agreement.

ACCORDINGLY, the Borrower and the Agent, on behalf of the Lenders, hereby agree as follows:

1. This Security Agreement Supplement hereby incorporates by reference all of the terms and conditions of the Security Agreement and, unless the context otherwise requires, all terms used in this Security Agreement Supplement which are defined in the Security Agreement shall have the meanings assigned to them in the Security Agreement.

2. As of the date hereof, pursuant to the terms and conditions of the Security Agreement and in order to secure the prompt and complete payment and performance of the Secured Obligations, the Borrower hereby pledges, assigns and grants to the Agent, on behalf of and for the ratable benefit of the Lenders, a security interest in all of the Borrower's right, title and interest in and to (i) the railroad cars described on the attached Schedule(s) of Equipment and all accessories, equipment, parts and appurtenances appertaining or attached thereto, (ii) the leases described on the attached Schedule(s) of Leases, and (iii) all accounts, contract rights, instruments, documents and chattel paper from time to time arising from or related to such railroad cars and leases, including, without limitation, (1) all amendments and modifications made from time to time to such leases, (2) the right to receive all rent payable in connection with the use of such railroad cars, (3) all claims for damages arising out of the breach of any such lease, (4) the right, if any, to terminate any such lease, to perform thereunder and to compel performance of the terms thereof, and (5) the right to take possession of any of such railroad cars; provided that, to the extent set forth in Section 8.17 of the Security Agreement, the Agent's security interest in the Equipment shall be subject to the rights of the Lessees under the Leases.

3. In order to induce the Lenders to extend credit to the Borrower pursuant to the Credit Agreement, the Borrower hereby represents and warrants to the Agent and the Lenders as follows:

(a) On and as of the date of this Security Agreement Supplement, there exists no Default or event which but for the lapse of time or the giving of notice, or both, would constitute a Default.

(b) The representations and warranties of the Borrower contained in Article III of the Security Agreement and Article V of the Credit Agreement are true and correct in all material respects on and as of the date of this Security Agreement Supplement except to the extent such representations and warranties relate to an earlier date, in which case such representations and warranties were true and correct in all material respects as of such earlier date.

(c) The information concerning the Equipment set forth in the attached Schedule(s) of Equipment is true and correct.

(d) The information concerning the Leases set forth in the attached Schedule(s) of Leases is true and correct.

IN WITNESS WHEREOF, the Borrower and the Agent have executed this Security Agreement Supplement as of the date first above written.

JAIX LEASING COMPANY

By: \_\_\_\_\_

Title: \_\_\_\_\_

THE FIRST NATIONAL BANK OF CHICAGO,  
as Agent

By: \_\_\_\_\_

Title: \_\_\_\_\_

STATE OF ILLINOIS       )  
                                      : ss.:  
COUNTY OF COOK       )

On this \_\_\_\_ day of \_\_\_\_\_, 19\_\_, before me, personally appeared \_\_\_\_\_, to me personally known, who being by me duly sworn, says that he/she is a \_\_\_\_\_ of JAIX Leasing Company, a Delaware corporation, that the foregoing instrument was signed on behalf of said corporation by authority of its Board of Directors, and he/she acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

\_\_\_\_\_  
Notary Public

[NOTARY SEAL]

STATE OF ILLINOIS       )  
                                      : ss.:  
COUNTY OF COOK       )

On this \_\_\_\_ day of \_\_\_\_\_, 19\_\_, before me, personally appeared \_\_\_\_\_ to me personally known, who being by me duly sworn, says that he/she is a Vice President of The First National Bank of Chicago, a national banking association, that the foregoing instrument was signed on behalf of said national banking association by authority of its Board of Directors, and he/she acknowledged that the execution of the foregoing instrument was the free act and deed of said national banking association.

\_\_\_\_\_  
Notary Public

[NOTARY SEAL]

## SCHEDULE OF EQUIPMENT

<u>Type of Railroad Cars</u>	<u>Number of Railroad Cars</u>	<u>Car Marks and Numbers</u>
[_____ railroad cars built or re-built by Johnstown America Corporation]		

## SCHEDULE OF LEASES

[Lease Agreement] dated as of \_\_\_\_\_, 19\_\_ between JAIX Leasing Company, a Delaware corporation, [as assignee of Johnstown America Corporation,] as lessor, and \_\_\_\_\_, a \_\_\_\_\_ corporation, as lessee.